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Chairman: Mr. Simon (Vice-Chairman) ..... (Hungary)
later: Mr. Bennouna (Chairman) ..... (Morocco)

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In the absence of Mr. Bennouna (Morocco), Mr. Simon (Hungary), Vice-Chairman, took the Chair.

The meeting was called to order at 3 p.m.

Agenda item 140: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/59/321)

1. **Ms. Noland** (Netherlands), speaking on behalf of the 25 members of the European Union, the candidate countries (Bulgaria, Croatia and Romania), the stabilization and association process countries (Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and also Iceland and Liechtenstein, urged countries that had not yet done so to ratify the Geneva Conventions and the Additional Protocols as well as the Statute of the International Criminal Court. She emphasized that no one was beyond the protection of the law, particularly in situations of armed conflict, and said that at the 28th International Conference of the Red Cross and Red Crescent, the European Union had made pledges in addition to those made by its Member States with respect to the commitment to international humanitarian law.

2. At the national level, it was important that States respect the rules of international humanitarian law and penalize violations of those rules. The principle of complementarity stressed that States should ensure that war crimes, genocide and crimes against humanity were penalized under their domestic legal system.

3. Internationally, the Tribunals that had been established to prosecute those responsible for acts of genocide, war crimes and crimes against humanity had been playing an important role in the development of international humanitarian law. They had, for example, helped to determine the parameters of command responsibility as well as which elements of international humanitarian law were part of customary international law. The International Fact-Finding Commission article 90 of Additional Protocol I, whose mandate had not yet been used, would be ideally suited to facilitate respect for international humanitarian law during armed conflict; the Commission had also indicated its willingness to provide its good offices in situations of non-international armed conflict.

4. Lastly, the members of the European Union were working towards ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols, the second of which had entered into force in 2004.

5. **Mr. Lauber** (Switzerland) said that his Government, as the depositary of the Geneva Conventions and the Additional Protocols informed the Committee that 192 States were parties to the Conventions while 162 were parties to Protocol I and 157 to Protocol II and that 68 States had recognized the competence of the International Fact-Finding Commission. Switzerland called on all States that had not yet done so to become parties to the Conventions and the Additional Protocols and to recognize the competence of the Commission, including in respect of non-international armed conflicts. His Government had ratified the second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which had entered into force in March 2004, and encouraged all other States to do likewise.

6. There was still an unacceptable gulf between reality and the obligations arising under international humanitarian law. Nothing could justify failure to respect the provisions of the Geneva Conventions and the Additional Protocols since humanitarian law specifically defined the minimal standard that must be applied to all in the event of armed conflict. No one was above the law and no one should be deprived of its protection. All States parties to the Geneva Conventions and to Additional Protocol I should therefore take the necessary legislative measures to establish the penalties applicable to those responsible for serious violations of those instruments, whom they were obliged to prosecute or to hand over to another party interested in prosecution. The principle of complementarity between the International Criminal Court and national jurisdictions meant that every country should strengthen its national procedures and capacities.

7. The International Court of Justice, in an advisory opinion of 9 July 2004, had emphasized that all States parties should ensure respect for the requirements of the four Geneva Conventions whether or not they were party to a specific conflict. That was also an obligation of States that deployed or supervised private military or security companies in situations of armed conflict. In addition, as the Court had confirmed in the same advisory opinion, the human rights conventions

continued to apply in time of armed conflict. Thus, the International Covenant on Civil and Political Rights was applicable to the acts of a State in the exercise of its jurisdiction outside its own territory.

8. At its tenth emergency special session, the General Assembly had asked all States parties to respect and ensure respect for the fourth Geneva Convention in the occupied Palestinian territory and had invited Switzerland, in its capacity as depositary, to carry out consultations and report to it thereon. Switzerland was currently making initial contacts with the parties most closely involved in the matter.

9. **Mr. Tajima** (Japan) said that in June 2004 his Government had announced that the Japanese Diet had approved the country's accession to the two Protocols Additional to the Geneva Conventions and that the Government had expressed its intention of undertaking the necessary procedures. Since then it had completed all the necessary legislative measures and had deposited its instruments of accession on 31 August 2004. On that occasion Japan had declared that it recognized the competence of the International Fact-Finding Commission.

10. **Mr. Al-Naqbi** (United Arab Emirates) said that despite the numerous instruments, measures and resolutions adopted, innumerable violations of human rights and humanitarian law continued to be committed. There was therefore a need for the creation of multilateral machinery to ensure the implementation of the four Geneva Conventions and the two Additional Protocols and to monitor the violations committed by the warring parties. A transparent and non-discriminatory policy should also be drawn up for the identification and prosecution of those committing war crimes, acts of genocide and other serious violations of international humanitarian law.

11. The United Arab Emirates had taken steps to incorporate international humanitarian law in its national legislation in order to promote respect for the rights of children, women and elderly people. It had also modernized its civil defence systems and carried out information campaigns in schools and the media concerning the rights and duties of citizens. The Government had also contributed, through the Red Cross Society of the United Arab Emirates, to international efforts aimed at alleviating the suffering of people affected by wars and violations of human rights across the world.

12. His Government was deeply alarmed at the serious violations of human rights committed by the Israeli Government against Palestinians and the Arab population of the Syrian Golan. Israel was not complying with the legal obligations imposed by the resolutions of the Security Council and the General Assembly. Moreover, the International Court of Justice, in an advisory opinion on the legality of the construction of a separation wall in the West Bank, had affirmed that the Geneva Conventions and their Additional Protocols applied to the territories occupied by Israel since 1967, including East Jerusalem, the Syrian Golan and the Shab'a farms. It was therefore imperative for the international community, including the United Nations and the influential States in the Security Council, as well as the depositary of the Geneva Conventions and their Protocols, to exert pressure on Israel to compel it to fully implement the relevant instruments in the occupied Palestinian and Arab territories.

13. **Ms. Ramos Rodríguez** (Cuba) said that civilians were increasingly being targeted in armed conflicts, in particular Palestinians living in the occupied territories. For that reason it was of the utmost importance to strengthen the legal regime applicable to armed conflicts by encouraging its universal acceptance. As recent history had been marked by numerous violations of international humanitarian law, the international community and the United Nations should strive to ensure strict adherence to the rules relating to the protection of civilians in armed conflict.

14. Only the abandonment of war for expansionist purposes and the commitment of all States to multilateralism, side by side with the United Nations and in compliance with the United Nations Charter, would make possible the development of humanitarian norms and ensure the protection of civilians in time of war. In addition, still greater efforts were needed to ensure respect for international humanitarian law at the national level and its wider dissemination.

15. The Republic of Cuba, which was a party to the Geneva Conventions of 1949 and the Additional Protocols of 1977, had done everything necessary to ensure respect for the rules set out in those instruments, notably the rules relating to the protection of civilians in situations of armed conflict. Moreover, the International Humanitarian Law Study Centre, which was sponsored by the Cuban Red Cross, had made a significant contribution to the dissemination

and teaching of international humanitarian law in Cuba and in several countries of Central America and the Caribbean.

16. **Mr. Shreim** (Observer for Palestine), stressing the importance of the Additional Protocols and welcoming the increase in the number of States parties thereto, recalled that paragraph 4, article 1, of Protocol I had added to the list of conflicts covered by the Geneva Conventions wars of national liberation, that is, wars waged by peoples in order to free themselves from an occupying power or a racist regime and exercise their right to self-determination.

17. Several General Assembly resolutions reaffirmed the applicability of Protocol I to the occupied Palestinian territory, demanding that Israel respect its obligations as an occupying Power and that Palestinian civilians be protected. The International Committee of the Red Cross (ICRC) had also said, on numerous occasions, that the Fourth Geneva Convention applied to the occupied territories (a view recently confirmed in the advisory opinion of the International Court of Justice (ICJ) regarding the separation barrier). A consensus did, therefore, exist. However, for 37 years Israel had refused to recognize its responsibilities and discharge its duties under international law. Such systematic violations of international law, particularly those covered by article 85 of Additional Protocol I and article 147 of the fourth Geneva Convention, had gone unpunished. The failure to apply humanitarian law had prevented the Palestinian people from exercising their right to self-determination and had brought disastrous consequences. The international community must take strong action before it was too late to halt the practices that placed Israel outside international law.

18. In paragraph 7 of its resolution ES-10/15, the General Assembly called on Israel to respect the Fourth Geneva Convention and invited Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and to report to the General Assembly on the matter, including with regard to the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention. Palestine was grateful to Switzerland for its efforts and looked forward to receiving its report.

19. **Mr. Boonpracong** (Thailand) said that his Government, which was in the process of acceding to Additional Protocol I, was preparing to take the necessary steps to apply all the provisions of the Protocol, especially those relating to the prosecution of war criminals. With respect to article 77 (5) of the Protocol, according to which the death penalty could not be imposed upon persons under 18 years of age having committed an offence related to armed conflict, the Thai Criminal Code had recently been amended in order to give full effect to the article.

20. Thailand agreed with the Secretary-General that "States Parties to international humanitarian law treaties [had] a legally binding commitment to adopt ... national legislation, so as to be in a position to respect and ensure respect for the law in all circumstances" (A/59/321), and looked forward to joining the other States Parties to Protocol I.

21. **Mr. Guan** Jian (China) said that his Government attached great importance to the Geneva Conventions of 1949 and their Additional Protocols and condemned any violation of those instruments. It was to be hoped that more States would comply strictly with their provisions and assist in their dissemination and effective implementation. China had acceded to the two Additional Protocols on 14 March 1983, had honoured its obligations thereunder, and had adopted measures for their study, dissemination and implementation.

22. Chinese law contained penalties for violations of the Geneva Conventions and the Additional Protocols. Members of the armed forces who abused prisoners of war or committed atrocities against innocent civilians were thus liable to punishment. Moreover, on 14 March 1997, the Government had adopted a law which expressly stated that, in its military relations with other States, China must abide by the treaties that it had concluded with them or had acceded to or accepted.

23. Furthermore, efforts had been made within the People's Liberation Army with a view to disseminating and implementing the Geneva Conventions and the Additional Protocols. Since 1991 the armed forces had held training seminars on international humanitarian law in cooperation with ICRC and had sent some of its members to various seminars and training courses on the study and dissemination of international humanitarian law. In June 2004 the armed forces had held a seminar for the Asia and Pacific region which had been attended by representatives of more than 20 countries in the region and of ICRC. Participants had discussed the current status of international

humanitarian law, the challenges it faced, and the progress made in its development.

24. His Government had always valued the important role played by China's Red Cross Committee in the dissemination of the Geneva Conventions and the Additional Protocols. The statute of the Chinese Red Cross Committee, adopted in October 1993, stipulated its rights and obligations and provided legal protection for its efforts to disseminate those legal instruments. In October 2003 and May 2004 the Chinese Red Cross Committee had held training sessions in cooperation with ICRC and planned to set up networks for the dissemination of international humanitarian law in 31 provinces before the end of 2004. His Government would continue to disseminate the principles of international humanitarian law and to contribute to the application of the Geneva Conventions and the Additional Protocols.

25. **Mr. Kupchysyn** (Ukraine) said that his Government, which supported the efforts of the international community to ensure respect for the rules of international humanitarian law during armed conflicts, had become a party to the Protocols Additional to the Geneva Conventions in 1990, and recognized the competence of the International Humanitarian Fact-Finding Commission.

26. Noting that civilians were often directly targeted by contemporary armed conflicts, he recalled that the parties to a conflict were required to respect the provisions of the Geneva Conventions and the Additional Protocols, particularly those relating to the protection of civilians. Grave breaches of those provisions should be regarded as war crimes. It was necessary to ensure universal compliance with the Conventions.

27. The United Nations played a leading role in that regard. He welcomed in particular the significant contribution of the Security Council in considering the protection of civilians, particularly children, in armed conflicts. Urgent measures should be taken to prevent children from being targeted, used, abducted, forcefully recruited or displaced in armed conflicts, or subjected to sexual exploitation or other abuses. The parties to a conflict were obligated to apply the relevant Security Council resolutions.

28. ICRC played an important role in promoting humanitarian law and in assisting Governments to implement the measures required to ensure that it was respected. Ukraine had concluded an agreement with ICRC with a view to setting up a mission in Ukraine, which should help to strengthen their mutual cooperation. Stressing the importance of the International Humanitarian Fact-Finding Commission, he called on all States to make the declaration provided for in article 90 of Protocol I.

29. **Ms. Makarovski** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the Geneva Conventions of 1949 and the Additional Protocols of 1977 constituted the cornerstone of international law. It was of the utmost importance that they be applied by all Member States and by all individuals engaged in armed conflict. It was also necessary to ensure that international humanitarian law reflected political realities and exigencies. The law must therefore be developed from time to time, and the Nordic countries played an active role in that process.

30. It was estimated that during the 1990s, four million people had died in armed conflicts, many of them civilian casualties of war crimes. Compliance with international humanitarian law needed to be improved in order to save human lives, diminish suffering and increase the possibilities for reconciliation in post-conflict situations.

31. The International Criminal Court would no doubt be of paramount importance in that regard and in the struggle against impunity for war crimes, crimes against humanity and acts of genocide. It was important to strive for as wide adherence as possible to the Rome Statute and for the contracting States to support the Court so that it could go about its work.

32. Moreover, the International Fact-Finding Commission could and should play a role in ensuring compliance with international humanitarian law. The Nordic countries urged States to make the declaration provided for under article 90 of Protocol I to recognize the competence of the Commission to inquire into allegations of grave breaches of international humanitarian law and to enable the Commission to facilitate, through its good offices, the restoration of an attitude of respect for such law.

33. It was vital for the international community to react to breaches of international humanitarian law at an early stage. Preventive action, such as awareness-raising campaigns and education, was needed to uphold respect for such law. The Nordic countries felt that the

work of the international community in that regard must become more effective in order to deter and prevent future breaches of international humanitarian law.

34. Attention should be drawn to the role and importance of ICRC, and the Nordic countries expressed their deep appreciation for the work done by that organization and its efforts to disseminate international humanitarian law, notably through its Advisory Service on International Humanitarian Law.

35. All parties to an armed conflict must respect humanitarian law; the Nordic countries called on all States and entities to respect such law, particularly with regard to the obligations of the belligerents to ensure the protection of civilians.

36. **Ms. Ahn** Eun-ju (Republic of Korea) said that her Government had taken various measures to strengthen international humanitarian law, including with regard to its dissemination and full implementation at the national level. The Government had established the Korean National Committee for International Humanitarian Law in October 2004. The Committee was mandated to make recommendations regarding measures to implement international humanitarian law, ratification of international humanitarian law treaties, and wider dissemination of international humanitarian law. It was also mandated to make recommendations regarding the interpretation and application of the principles of international humanitarian law and cooperation with ICRC and with other countries' national committees.

37. Her Government had ratified a number of international humanitarian law treaties since 2002 and had accepted the competence of the International Fact-Finding Commission in April 2004. In February 2003 it had accepted the amendment to article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. It had also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in September 2004 and it was currently considering accession to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocol.

38. Becoming a party to international humanitarian law treaties was only the first step, and each State party must follow up with implementation measures. States parties must also disseminate knowledge of international humanitarian law to the members of the armed forces, the police, students, government officials, the media and the general public. In that connection, the role of ICRC was especially important; the Committee must be commended for its work with other organizations to create the best possible synergies and to raise greater awareness on international humanitarian law issues. ICRC had closely cooperated with several organizations to that end. In particular, it had assisted her Government in its role as host country for the forty-second session of the Asian-African Legal Consultative Organization (AALCO).

39. During that session, a special meeting had been held on international humanitarian law in modern armed conflicts, at the conclusion of which the 47 member countries of the Organization had adopted the Seoul resolution on international humanitarian law. That resolution called upon those Member States that had not yet done so to ratify the 1949 Geneva Conventions and the 1977 Additional Protocols, as well as other international humanitarian law treaties. It also urged all Member States to ensure the applicability of such law by adapting their laws and regulations, establishing national committees on international humanitarian law, complying with the principles of distinction and proportionality, protecting civilian populations, persons *hors de combat*, prisoners of war, civilian objects and cultural property by carefully weighing the choice of methods of warfare in order to avoid unnecessary losses or excessive suffering, and to help ICRC perform its humanitarian mandate to protect and assist the victims of armed conflicts.

40. Accordingly, the delegation of the Republic of Korea urged the Committee to recognize and acknowledge the efforts of AALCO to promote the implementation and dissemination of international humanitarian law. Her delegation would propose an appropriate reference to the adoption of the Seoul resolution by AALCO in the draft resolution on the agenda item.

41. **Mr. Ascencio** (Mexico) said that his country's attachment to international humanitarian law and the protection of civilians and victims of armed conflicts was attested to by its active role, as a non-permanent member of the Security Council, in the adoption of Council resolution 1502 (2003) on protection of United Nations personnel, associated personnel and

humanitarian personnel in conflict zones, and by the measures it had adopted to ensure national and regional dissemination and recognition of international humanitarian law. In that connection, he reminded all States that ratification of or accession to existing international instruments was not enough and must go hand in hand with the effective application and incorporation of their provisions into domestic law.

42. At the national level, the Ministry of Defence had produced military manuals containing the provisions of the four 1949 Geneva Conventions on international humanitarian law and protection of human rights and had organized training sessions in those areas with ICRC support for national army personnel, who had also participated in international training activities. At the regional level Mexico had supported the decisions taken within the framework of the Organization of American States to strengthen international humanitarian law in accordance with the Plan of Action of the third Summit of the Americas. Accordingly, in 2003 and 2004, it had submitted draft resolutions along those lines, containing important provisions on the protection of victims of armed conflict, particularly civilians and prisoners, and on access by humanitarian personnel to those victims as provided for in Security Council resolution 1502 (2003). It had also organized a regional meeting of experts with a view to strengthening observance of international humanitarian law with the assistance of ICRC, with which it collaborated closely in that area, through the ICRC regional office opened in Mexico City in 2002.

43. **Mr. Hafrad** (Algeria) observed that the rules of international humanitarian law were the basis for the protection of victims of warfare and that they were binding. Algeria, a State party to most international humanitarian law instruments, therefore assigned great importance to the protection of human rights in armed conflicts. In that connection, in October 2001, his Government had ratified the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.

44. He also welcomed the reports on the protection of children in armed conflict and on the protection of civilians in armed conflict, although he regretted that the issue of the protection of civilian populations in occupied territories had not been dealt with. He emphasized the important role played by ICRC in promoting the rules of international humanitarian law and helping States to apply those rules at the national level.

45. **The Chairman** said that there were no further speakers on the list. He invited the two States parties to the 1949 Geneva Conventions and their Protocols which had expressed a wish to address the Committee to take the floor.

46. **Mr. Kuzmenkov** (Russian Federation) said that the Russian Federation attached great importance to the 1949 Geneva Conventions and the Additional Protocols of 1977, which were the foundation of international humanitarian law. It had to be recognized that not all Member States were prepared as yet to honour the obligations arising under the Protocols. That was why his delegation supported the Secretary-General's appeal to those States which had not yet done so to consider becoming parties to those instruments.

47. However, many States had become parties to the two Protocols, which showed how important they were considered to be throughout the world. He commended the efforts of ICRC and its national societies to publicize the principles of international humanitarian law, including the 1949 Geneva Conventions and the two related protocols.

48. Gaps still remained, however, particularly in relation to requests for assistance addressed to the International Fact-Finding Commission established pursuant to article 90 of Protocol I. If those States which were not parties to the Rome Statute of the International Criminal Court could have recourse to that Commission, that would strengthen the principles of objectivity, impartiality and equity in the investigation of war crimes.

49. **Mr. Paclisanu** (International Committee of the Red Cross) said that the protection of human life and dignity was a fundamental objective that lay at the very core of international humanitarian law. Wherever that law was not respected, human suffering became all the more severe and the consequences of conflict more difficult to overcome. It was well known that improving respect for humanitarian law required steps to be taken already in peacetime. In that regard, ICRC encouraged States to consider becoming parties to all instruments relevant to the protection of victims of armed conflicts, since universal participation would enhance the authority of those treaties. He also

encouraged States to adopt any legislative, administrative or other measures that might be required to give effect to international norms at the national level. He noted with satisfaction that, as reflected in the Secretary-General's report before the Committee (A/59/321), States were increasing their efforts and their commitment to better implement international humanitarian law in their domestic legal systems.

50. To date, 192 States were parties to the Geneva Conventions, 165 States had acceded to Additional Protocol I and 156 to Additional Protocol II. He was pleased to note that several other States had also indicated their interest in becoming parties and had undertaken the necessary preparatory steps. He reminded States of the possibility of recognizing the competence of the International Fact-Finding Commission in accordance with article 90 of Protocol I and of making use of the good offices of the Commission in situations of international or non-international armed conflict.

51. ICRC welcomed the progress achieved in the setting up of the International Criminal Court, as attested by the ratification of the Rome Statute by 97 States. The aim of the Court was to punish more effectively those who committed the most serious crimes, including war crimes. It was widely recognized that preventing impunity could be achieved through a comprehensive system of national and international jurisdictions that complemented each other. Implementing rules relating to the repression of war crimes at the national level was thus of the utmost importance, since the enforcement of individual responsibility was an essential mechanism in ensuring respect for law.

52. Through its Advisory Service on International Humanitarian Law, ICRC was committed to helping national authorities to adapt their criminal legislation on the repression of war crimes as provided for under the Geneva Conventions and their Additional Protocols, through the adoption of all legislative, regulatory and administrative measures required at the national level.

53. However, adopting or adapting penal legislation was not the only concern. Of prime importance to ICRC was the effective protection of cultural property in the event of armed conflict. Such property should be protected not only in the light of its intrinsic value for humanity and for future generations, but also because attacks against such objects might act as a catalyst for further violence, widespread hostilities and the violation of values that the law sought to preserve. The year 2004 marked the fiftieth anniversary of the adoption of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and he also welcomed the entry into force of the 1999 Second Protocol to that Convention. To promote the ratification and national implementation of those instruments, ICRC had organized in 2004, in association with the United Nations Educational, Scientific and Cultural Organization (UNESCO), a series of regional seminars on every continent. He took the opportunity to appeal to States which had not yet done so to consider acceding to those important treaties as soon as possible.

54. Many States had already adopted national laws for the protection of individuals in armed conflicts. Nevertheless, the national implementation of international humanitarian law should be a constant concern. Domestic laws and regulations must be adapted to comply with existing treaties and to keep pace with the development of international law as a whole. In that sense, the work of national committees for the implementation of international humanitarian law had proved very useful. Currently, 68 such committees were active worldwide, and ICRC was cooperating closely with them.

55. He welcomed the pledges made by States at the 28th International Conference of the Red Cross and the Red Crescent held at the end of 2003. On that occasion, a large number of States had undertaken to accede to the instruments of humanitarian law and to take measures to implement the law at the national level. He hoped that those pledges would be honoured and emphasized that ICRC was willing to provide any assistance needed in achieving that goal.

56. **Mr. Chaabani** (Tunisia), speaking on behalf of the Group of Arab States, emphasized the universality of the four Geneva Conventions and the two Additional Protocols relating to the protection of victims of armed conflicts, which were an integral part of international humanitarian law. He appealed to all States to respect the rules of that law, particularly Protocol I. Lastly, he reiterated that international humanitarian law did indeed apply to the situation in the occupied Palestinian territory, and called for compliance with the advisory opinion of the International Court of Justice concerning the obligation of all States parties to the

fourth Geneva Convention of 1949 to ensure that Israel abided by the rules of international humanitarian law contained in that Convention.

57. **Mr. Lavalle-Valdés** (Guatemala) proposed, subject to any budgetary implications such a proposal might have, that the statement made by the representative of ICRC should be issued as an official document, since it contained information which was not included in the report of the Secretary-General and which would be very useful for the Sixth Committee in its deliberations.

Statements in exercise of the right of reply

58. **Mr. Lenk** (Israel) said that he wished to protest in the strongest terms the abuse of the platform afforded by the Sixth Committee to point out the obligations of a single party to a single conflict under international law, since respect for that law, which was vital in all situations of armed conflict, was weakened and not strengthened when it served as a political weapon. He was surprised that the obligations imposed under international humanitarian law were not held up against the deliberate terrorist policy of the Palestinian leaders, a policy which violated that same law, since it jeopardized the right to life not only of innocent civilians who were victims of attacks in Israel, but also of Palestinians who were used as human shields by the perpetrators of those attacks. While Israel had a duty to protect its population against terrorist attacks, it was, of course, also required to respect its obligations under international humanitarian law; that task was complicated, however, by the tactics of its enemies, who bore the primary responsibility for the Palestinian losses resulting from their actions. In that conflict, as in all conflicts, responsibility must be shared, and the interests of international humanitarian law were better served when that law was applied equitably to all parties, duly taking into account realities on the ground, rather than invoked inappropriately and with dubious intent.

59. **Mr. Hmoud** (Jordan) said that while the Sixth Committee was a technical body, its debates nonetheless had a political dimension, inasmuch as they dealt with such issues as the application of international humanitarian law in general and the two Additional Protocols in particular, which were related to one of the central goals of the United Nations — the maintenance of international peace and security — and to a related situation, the situation in Palestine. Moreover, there was no doubt that international humanitarian law and the four Geneva Conventions of 1949 applied to the occupied Palestinian territory. Israel's declared intention to respect its obligations as an occupying Power in the territories occupied since 1967 was therefore welcome.

60. Furthermore, the measures taken by a State to protect its population against terrorist attacks, in exercise of a right which Jordan willingly acknowledged as a right of all States, must comply with certain statutory rules and regulations of international humanitarian law; in the case of the West Bank and East Jerusalem, that meant the Hague Convention Respecting the Laws and Customs of War on Land, of 1907, and the Regulations annexed thereto, the four Geneva Conventions of 1949 and Protocol I Additional to those Conventions. Such measures must, in particular, comply with the requirement of "military necessity", meaning, for example, that no collective penalty could be decreed against a population on the ground of acts by individuals.

61. **Mr. Shreim** (Observer for Palestine) said, first, that the Sixth Committee was indeed the forum in which to address questions relating to the legal obligations of States under international humanitarian law, and particularly the question of Israel's obligations as an occupying Power. With regard to terrorism, which would be discussed under another agenda item and in other United Nations forums, attacks against civilian populations and objects, such as places of worship, and indiscriminate attacks against unprotected civilians — practices engaged in extensively by Israel during its 37-year-long occupation, which had been characterized by excessive use of force against Palestinians — were considered terrorist acts under international humanitarian law. No one could deny that Israel had a right and a duty to protect the lives of its people, as the International Court of Justice had pointed out in its recent advisory opinion, but the Court had nonetheless made it clear that in the exercise of that right, Israel must abide strictly by its obligations under international law, which it had failed to do in respect of the Palestinian people.

Agenda item 141: Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives (A/59/125 and Add.1)

62. **Ms. Noland** (Netherlands), speaking on behalf of the European Union, the candidate countries (Bulgaria, Croatia and Romania), the stabilization and association process countries (Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and the European Free Trade Association country Iceland, member of the European Economic Area, said that violent incidents involving diplomatic and consular personnel and premises had again increased, as shown by the recent attacks in Jakarta and Baghdad against the embassies of Australia, Greece, the Netherlands and Jordan; she strongly condemned such acts, which were contrary to the principle of inviolability of such missions and representatives, a principle that contributed to establishing trust between States and concord among peoples, and reiterated that such acts could never be justified and that their perpetrators must be brought to justice. The European Union, convinced of the need to increase protection and security in that area, urged States to strictly observe and implement the provisions of international law governing diplomatic and consular relations and to ensure the protection of diplomatic and consular missions and representatives, which should be free of all pressure on property and persons alike. Host States had a special responsibility in that regard, of which the General Assembly had repeatedly reminded them, and which should be reaffirmed in a new resolution based on Assembly resolution 57/15.

63. The delegations on whose behalf she spoke regretted that so few States had complied with the reporting procedures provided for in the aforesaid resolution and encouraged the submission of such reports in the future. The European Union welcomed the growth in the number of States parties to the conventions on protection, security and safety of diplomatic and consular missions and representatives; the norms contained in those instruments deserved universal acceptance, and the Union again called upon all States that had not yet done so to become parties to those instruments.

64. **Mr. Eriksen** (Norway), speaking on behalf of the Nordic countries, said that those countries had been the first to place the item in question on the General Assembly's agenda 24 years earlier. The protection of foreign emissaries had been one of the first areas of international relations to be covered by rules in all legal systems; international cooperation depended on such protection, which must not be violated. Pursuant to universally accepted norms of international law, such as the Vienna Conventions on Diplomatic and Consular Relations, receiving States had the primary obligation to protect diplomatic and consular representatives and missions. That was a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations. The principles in question protected the channels of communication between States, which were essential to the maintenance of international peace and security. The duty of representatives to respect the laws and regulations of receiving States must be strictly observed, as they enjoyed protection not as individuals, but rather as officials.

65. The Nordic countries strongly condemned acts of violence against diplomatic and consular representatives, as well as against representatives of intergovernmental organizations; such acts could never be justified. The States on whose behalf he spoke, particularly concerned at the resurgence of such acts, which seriously impeded the work of the Organization and had claimed many victims in recent years, emphasized the need for close cooperation between sending and receiving States in order to prevent violations of the security and safety of diplomatic and consular missions and representatives.

66. **Ms. Ramos Rodríguez** (Cuba) categorically condemned attacks on the security of diplomatic and consular missions and representatives and said that the perpetrators must be punished. States must take the necessary steps at the national level to fulfil their international obligations in that regard and ban in their territories the activities of individuals, groups or organizations which incited, aided or took part in such acts. Cuba had done so, and had also provided the missions present in its territory with the security services needed to protect the offices and residences of their representatives.

67. Cuban legislation outlawed acts, attacks or attempts against the honour and dignity of the diplomatic representatives of foreign States and imposed severe custodial sentences on those responsible for such acts. In view of the importance of strict compliance with existing international

instruments for the protection and safety of diplomatic and consular missions and representatives, Cuba welcomed the fact that another 32 countries had signed them, as recent events showed that they were still important.

68. **Mr. Playle** (Australia) said that his country's concern for protecting the security of diplomatic missions and representatives had been made all the greater by the bombing of the Australian embassy in Jakarta, Indonesia, on 9 September 2004. Australia wished to record again its appreciation for the ongoing cooperation of the Indonesian Government. Although there had been no victims among the embassy staff, his Government regretted that Indonesian nationals, including police and security officers guarding the embassy, had been killed. His Government was pleased to be in a position to help by providing financial aid for the families of those killed and injured and by providing support to strengthen the capacity of the Indonesian emergency services. The bombing demonstrated again that diplomatic missions continued to be a prime target for terrorist groups. Australia called upon all States to work together in ensuring the safety and security of their diplomatic and consular missions and representatives, and to ensure that all perpetrators of terrorist acts were brought to justice in accordance with international law.

69. **Mr. Kone** (Burkina Faso) said that the report of the Secretary-General (A/59/125) had revealed that some Members of the Organization had failed in their significant obligation to guarantee the security of diplomats duly accredited and freely accepted in their territory. Pages 3 and 4 of the report stated that a number of Burkina Faso's diplomats and missions abroad had been victims of that failure to comply with international law.

70. The principle of protecting diplomatic and consular missions and representatives was at the heart of international law and diplomatic practice, as such missions and representatives embodied and perpetuated friendly relations between States. In the receiving State, representatives must have the security they needed to fulfil their functions, which contributed to maintaining and strengthening peace, security and peaceful coexistence. The receiving State must therefore take all appropriate action to inflict exemplary punishment on those guilty of violent attacks against foreign missions and their staff. The receiving country's obligation to provide protection was binding under international law and must be adhered to strictly, completely and non-selectively.

71. Recognizing its responsibilities to the international community, Burkina Faso had regularly provided all the necessary information regarding steps taken to ensure the security of all diplomatic and consular missions on its soil. Those reports certified that no missions or representatives had suffered threats or any other direct form of hostility in the country's territory. The competent authorities would continue to take the necessary action to ensure that missions and their representatives remained secure and undisturbed.

72. **Mr. Sinaga** (Indonesia) acknowledged the expressions of sympathy and condolences following the recent terrorist attack in Jakarta, which had taken place near the Australian embassy and had also damaged the embassy of Greece. That cruel act on the morning of 9 September 2004 had led to the deaths of 9 innocent Indonesian citizens and wounded 102 others. If the terrorists had aimed at undermining Indonesia's determination, the attack had failed, as his Government remained firm in its commitment. The terrorists might also have hoped to sow the seeds of division and discord between the Governments and people of Indonesia and Australia, but both nations had established solid relations over the years that could not be affected by a terrorist attack.

73. With regard to the protection, security and safety of diplomatic and consular missions and representatives, Indonesia had already ratified four out of the seven conventions listed in the report of the Secretary-General (A/59/125). With reference to the compulsory settlement of disputes, his Government was of the view that States should have the choice of exploring settlement first through negotiations rather than by automatic reference to judicial mechanisms.

74. Indonesian police and intelligence officials had established working relations with foreign embassies in order to give greater protection to the diplomatic community in the country. His Government would continue to make the protection of diplomatic missions a matter of high priority.

75. **Mr. Diallo** (Mali) said that the question of violations of international law concerning the security of diplomatic and consular staff and the inviolability of diplomatic and consular premises had been on the Sixth Committee's agenda for 24 years. The report of the Secretary-General (A/59/125) indicated that

unacceptable acts of violence were continuing to target diplomatic and consular missions and representatives. The Malian delegation emphatically condemned such acts, which threatened the stability of international relations. Adherence to the principles and norms of international law was an essential prerequisite for the proper conduct of relations between States, for assuming international commitments meant taking appropriate action to implement those commitments.

76. His delegation reaffirmed its adherence to the principles of international law on diplomatic and consular relations, and believed that the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, must be complied with in order for diplomatic and consular staff to be able to perform their duties unhindered.

77. The privileges and immunities enjoyed by diplomatic and consular staff and premises were a vital guarantee against violent acts and embodied the obligation of the receiving State to take all appropriate measures to provide security for diplomatic and consular missions and representatives. The obligation to safeguard diplomats' physical security was a legal obligation, and any shortcoming threatened to weaken the relationship of trust between nations. The receiving State must therefore strictly apply and enforce the provisions of international law, and its obligation to protect diplomats and their property must be translated into action.

78. The perpetrators of violent acts against diplomats and their property must be found and brought to justice. That was the thinking behind Mali's report of 25 July 2003. True to its ancient tradition of hospitality, Mali had always taken the appropriate action to guarantee the security of diplomatic and consular missions and representatives in its territory. It believed that the proposal in its report to make available security guards to be posted at foreign missions and residences would strengthen the protection and security of diplomatic and consular missions and representatives.

The meeting rose at 5.25 p.m.